

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSEPH WAYNE LOFTIN,)
)
Plaintiff,)
)
v.) 1:12CV250
)
UNITED STATES BUREAU OF)
PRISONS,)
)
Defendant(s).)

ORDER AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff, a federal prisoner housed in the Eastern District of North Carolina, has submitted a letter pleading to a Judge of this Court in which he complains about his medical treatment and certain conditions in prison. He seeks “help and intervention” from the Court and to have the Court “demand care” for certain of his medical ailments. There are multiple problems with Plaintiff’s submission, not the least of which is that it is an attempt at ex parte communication with a Judge of this Court. This is not proper. Further, this Court does not control or supervise the Bureau of Prisons so that it can simply intervene and demand that prisoners receive certain care. If a prisoner feels that his Constitutional rights have been violated by a lack of medical treatment or other conditions in prison, he must seek relief first through administrative remedies in the prison and then by filing an action under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). The Court will construe Plaintiff’s submission as being such an action and treat it as a Complaint under

Bivens. Nevertheless, the form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problems are:

1. The Complaint is not on forms prescribed for use by this Court, nor is the information requested by such forms and necessary to process the Complaint pursuant to 28 U.S.C. § 1915A contained in Plaintiff's submission. *See LR 7.1(f).*
2. Filing fee was not received nor was a proper affidavit to proceed *in forma pauperis* submitted, with sufficient information completed or signed by Plaintiff, to permit review.
3. Plaintiff is incarcerated in the Eastern District of North Carolina. Therefore, it appears that any potential defendants would be located in that district and that it, not this District, would be a proper location for any suit Plaintiff wishes to file. Plaintiff should seek the proper forms from the Clerk of that district and file the Complaint there. The proper address is: 310 New Bern Avenue, Room 574, Raleigh, NC 27601.

Consequently, the Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, and in the correct district. *In forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

IT IS THEREFORE ORDERED that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

IT IS RECOMMENDED that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint, on the proper § 1983 forms, and in the proper district.

This the 19th day of March, 2012.

/s/ Joi Elizabeth Peake
United States Magistrate Judge